

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Aqua Illinois, Inc.,	)	
General Increase in Water	)	Docket No. 11-0436
and Sewer Rates	)	

**BRIEF ON EXCEPTIONS OF  
THE PEOPLE OF THE STATE OF ILLINOIS**

**The People of the State of Illinois  
By LISA MADIGAN, Attorney General**

Janice A. Dale,  
Chief, Public Utilities Bureau  
Susan L. Satter  
Cathy C. Yu  
Assistant Attorneys General  
Illinois Attorney General's Office  
100 West Randolph Street, 11th fl.  
Chicago, Illinois 60601  
Telephone: (312) 814-1104  
Facsimile: (312) 812-3212  
E-mail: [jdale@atg.state.il.us](mailto:jdale@atg.state.il.us)  
E-mail: [ssatter@atg.state.il.us](mailto:ssatter@atg.state.il.us)  
E-mail: [cyu@atg.state.il.us](mailto:cyu@atg.state.il.us)

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The People of the State of Illinois, by Attorney General Lisa Madigan, (“AG”) submit the following Exceptions and Initial Brief on Exceptions in response to the Proposed Order issued on January 11, 2012 (hereafter referred to as Proposed Order).

## **I. Introduction**

This case involves Aqua Illinois’s request to consolidate half of its customers, in nine water divisions, into a single tariff. The record demonstrated that the rate impacts on residential consumers as a result of the consolidation were extreme, and in many cases not consistent with the results of the Company’s own cost of service study. In addition, the Company proposed to continue the substantial subsidy received by its one large industrial user (Viscofan), which claims it can construct its own water plant at a lower cost. This subsidy further increases residential rates and drives them farther from cost.

**Exception I.** The People did not address the revenue requirement issues in the case, but focused on the cost allocation and rate design proposals. The Proposed Order adopted the Staff proposed rate design which moderated the Company’s request to some extent. As discussed below, the People except to the treatment of the Ivanhoe Division and propose that it be moved to either the Candlewick/Fairhaven Group or consolidated with University Park, as discussed below. Otherwise the People accept the consolidation in the Proposed Order.

**Exception II.** The People also except to the Proposed Order’s failure to require Aqua and Viscofan to establish a longer term service agreement. The Proposed Order accepts that Viscofan’s current service “is governed by a four-year water service agreement.” Proposed Order at 49. The People maintain that four years is too short a period, as discussed further below.

## **II. Exception I: The Commission Should Consolidate Ivanhoe with University Park To Minimize Rate Impacts And Avoid Widely Disparate Results.**

The Proposed Order adopts Staff's rate design to consolidate Fairhaven and Candlewick into one division, and consolidate Oak Run, Ravenna, Hawthorn Woods, Willowbrook, Ivanhoe, and Vermillion into another division, while excluding University Park from consolidation, and keeping University Park as a stand-alone rate division. The effect of the Proposed Order's revenue levels on the residential rate design is not clear given the discrepancies among the size of the revenue increase,<sup>1</sup> cost of service results, and the proposed increases to the various customer classes and divisions. Based on Staff Exhibit 9.0R, it appears that the rate effect on most Aqua consumers will be substantial, but relatively consistent. However, the People except to the inclusion of the Ivanhoe Division in the larger consolidation group. This will result in an increase for Ivanhoe residential customers that exceeds the increases borne by other customers, and is not necessary.

In adopting the Staff's proposal, the Proposed Order states that:

In addition to providing increased efficiencies over the current stand-alone division approach, the Staff proposal would allow the recovery of costs to be spread over a larger customer base -- thereby benefiting customers in divisions that would face larger increases without consolidation -- while *avoiding the most sizeable of increases that would occur if consolidation were to proceed at a faster and more comprehensive pace as proposed by Aqua*. For those divisions that will pay more under Staff's consolidation proposal than if they continued to stand alone, the Staff proposal is designed to ensure that customers in those divisions "would face only a slightly larger increase in their monthly bills in the Consolidated Tariff Group than if they stood alone."

Proposed Order at 43-4 (emphasis added). This, however, is not actually the case for the Ivanhoe Division. Currently, ratepayers in the Ivanhoe division pay \$21.11 per month for 5,000 gallons of

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<sup>1</sup> The increases for the three groups are 13.49% for the large consolidated water group (Appendix A, page 1), 14.88% for Fairhaven and Candlewick water (Appendix D, page 1) and 75.54% for University Park water (Appendix F, page 1).

water. Under the Proposed Order's plan (based on the People's understanding of the Staff rate design, and subject to correction upon receipt of the responses to the ALJ's Post Record Data Request, due January 26, 2012), Ivanhoe ratepayers would see their monthly bills rise 224% to \$47.41 per month for 5,000 gallons of water. This result constitutes rate shock and is not justified by the single-tariff principles cited in the Proposed Order.

As already established in this case, the proposal to consolidate Ivanhoe with Oak Run, Ravenna, Hawthorn Woods, Willowbrook, and Vermillion does not track cost of service results. As a stand-alone system based on Aqua's cost of service study (which the People have criticized as inaccurate, AG Ex. 1.0 at 4-17 and AG Ex. 2.0 at 1-6), Ivanhoe rates would increase 142.8% - still a substantial increase. AG Initial Brief at 5. However, Ivanhoe is being asked to shoulder an extraordinary 224% increase which is substantially more than its stand-alone cost of service. This is an unnecessary and unfair result.

The Proposed Order proposes to consolidate Candlewick and Fairhaven at a lower rate than the major consolidation group, at \$34.80 for 5,000 gallons per month, as compared to \$47.41 per month in the larger consolidated group for the same usage, while University Park water would be retained as a stand-alone division with water rates that are lower than the other two groups at \$25.47 per month for 5,000 gallons. Consolidating Ivanhoe with Candlewick and Fairhaven would be fairer to Ivanhoe consumers and be consistent with the basic regulatory concept of gradualism. Although an increase of 64.85% is still substantial, it is considerably less than the 224% increase that consolidation with the larger group would produce. The People request that the Commission moderate the Proposed Order and move Ivanhoe to the Candlewick/Fairhaven Division.

In the alternative, the People suggest that the Commission, in keeping with the principles of single-tariff pricing and avoidance of rate shock, consolidate Ivanhoe with University Park. The People made this recommendation in their Initial Brief, and calculated a usage of \$3.0882 per 1,000 gallons. This consolidation would save the typical Ivanhoe customer more than \$14 per month, but cost University Park customers less than \$0.80 per month. This proposal is rooted in cost of service principles and a necessary sensitivity to rate impacts.

The Commission states its mission to be “to pursue an appropriate balance between the interest of consumers and existing and emerging service providers to ensure the provision of adequate, efficient, reliable, safe and least-cost public utility services.” <http://www.icc.illinois.gov/about.aspx> (January 25, 2012). Water service is an essential service without which homes quickly become uninhabitable. Extreme increases in cost can cause substantial hardship to consumers, and result in both revenue swings as people rush to conserve to control their bills and possible health risks.

Therefore, the AG respectfully requests that the Commission modify the Proposed Order’s conclusion and exclude Ivanhoe from the larger consolidation, and move it to either the Candlewick and Fairhaven group or consolidate it with University Park.

### **PROPOSED LANGUAGE**

On page 43, Section VII.B.4, the People recommend that the following changes be made:

Currently, each of Aqua’s 10 water divisions has its own standalone rate structure and rates. Nine of those divisions, Oak Run, Ravenna, Hawthorn Woods, Willowbrook, Ivanhoe, Fairhaven, Candlewick, Vermilion and University Park, are part of this rate proceeding. The tenth, Kankakee, which has as many customers as all of the nine consolidated districts, is not part of this proceeding.

As indicated above, Aqua, Staff and the AG have advanced separate proposals to combine some of the nine divisions into one or more consolidated rate divisions.

Aqua would combine them all into one rate division, except for the University Park division.

Staff would also exclude University Park from consolidation. Staff would combine Fairhaven and Candlewick into one consolidated division, and would combine the other six divisions into another consolidated division.

The AG would combine Ravenna, Hawthorn Woods and Vermillion into one consolidated division. The AG would also combine Ivanhoe and University Park into a second consolidated division, with the other four divisions remaining as standalone divisions.

Having reviewed the record, the Commission finds that of the three competing proposals in the record, the one offered by Staff, when coupled with the customer and usage charge “revenue splits” in Staff’s rate design approach discussed below, appears to be more of a middle-ground recommendation that achieves the best balance, or reconciliation, of the competing objectives and tradeoffs identified by the parties. The only change that the Commission will make to the Staff proposal is to move the Ivanhoe division into the combined Fairhaven and Candlewick water division. If Ivanhoe were moved into the larger consolidated group, the increase to Ivanhoe residential consumers would exceed 200% and be greater than if Ivanhoe were left as a stand-alone division. This is contrary to cost of service principles and is not necessary.

ALTERNATIVE LANGUAGE: Having reviewed the record, the Commission finds that of the three competing proposals in the record, the one offered by Staff, when coupled with the customer and usage charge “revenue splits” in Staff’s rate design approach discussed below, appears to be more of a middle-ground recommendation that achieves the best balance, or reconciliation, of the competing objectives and tradeoffs identified by the parties. The only change that the Commission will make to the Staff proposal is to move the Ivanhoe division into the University Park water division. Both University Park and Ivanhoe are relatively low priced divisions, and by consolidating them, we move Aqua toward consolidation while avoiding the rate shock that consolidation with the larger consolidation group will produce.

In addition to providing increased efficiencies over the current standalone division approach, the Staff proposal would allow the recovery of costs to be spread over a larger customer base -- thereby benefiting customers in divisions that would face larger increases without consolidation -- while avoiding the most sizeable of increases that would occur if consolidation were to proceed at a faster and more comprehensive pace as proposed by Aqua. For those divisions that

will pay more under Staff's consolidation proposal than if they continued to stand alone, the Staff proposal is designed to ensure that customers in those divisions "would face only a slightly larger increase in their monthly bills in the Consolidated Tariff Group than if they stood alone."

Not unexpectedly, the Staff proposal provides similar benefits in terms of cost of service, as the divisions that would be most impacted by Aqua's consolidation proposal are not included in the larger consolidation group in Staff's proposal with the modification we adopt regarding the Ivanhoe division.

Accordingly, the consolidation proposal advanced by Staff with the modification we adopt regarding the Ivanhoe division, including the customer and usage charge "revenue splits" incorporated therein, should be adopted.

**III. Exception II: The Commission should require Aqua and Viscofan to establish a longer term service agreement to avoid future uncertainties about Viscofan's presence on the Aqua system.**

The Proposed Order recognizes that Viscofan is receiving a substantial subsidy from Aqua's other consumers, although it slightly increases Viscofan's revenue responsibility to 52.95% of its cost of service, up from 49.7%. Proposed Order at 49. Irrespective of whether the Commission changes this subsidy, the People maintain that it is untenable and unfair to Aqua's other customers to have to relitigate whether Viscofan will remain an Aqua customer every time there is a rate case. The Proposed Order fails to provide a comprehensive or long-term approach to the problem of rising water rates, the fact that industrial customers can obtain water at a lower cost, and that other customers (some in distant parts of the state) are being asked to make up the difference between a possibly more economical cost of self-supply and Aqua's rates.

The Proposed Order concludes that Viscofan requires a subsidy by other customers to remain an Aqua customer. However, it does not address the implication of Viscofan's argument that it could self supply – i.e. that self-supply requires a long term investment and commitment to managing its own water supply. Rather than have Aqua proceed from case to case and improvise

a solution based on Viscofan's threat to self-supply, which will take several years to implement, the Commission should require Aqua and Viscofan to make a longer term commitment to service so that all parties – Viscofan, Aqua, and all other consumers – can predict the effect of keeping Viscofan on the system.

As a result of Aqua's requests in this docket, both industrial and non-industrial users are burdened with higher costs, with small users paying substantially increased rates due to Aqua's inability to offer service to its industrial customer at rates that are competitive to self-supply. The Commission should recognize that it does not make a difference to Aqua that its rates are not competitive with self-supply because it can recover all of its cost of service from customers without choices. Viscofan has all of the bargaining power while residential and commercial customers have none. It is precisely in such a situation that the Commission must step in and require Aqua to enter into negotiations to limit consumers' exposure to increased rates due to the competitive options of one major customer. The best way to do this is through the requirement of a long term (i.e. 10 year) agreement where the true costs of self-supply are set.

#### **PROPOSED LANGUAGE**

On page 49, Section VII.D.5, the People recommend that the following changes be made:

Of the various proposals of record, summarized above, the Commission finds that the Staff recommendation on the size of the Viscofan subsidy strikes the best balance of interests and should be adopted.

Staff's proposal continues to offer a significant discount to Viscofan -- in order to provide an incentive to remain on the Aqua system rather than pursuing a competitive alternative -- while slightly reducing the "subsidy" imposed on other customers by recovering revenues from Viscofan that are intended to equal 52.95% of Viscofan's cost of service, up from 49.7% approved in Docket No. 04-0442.



As Viscofan, Aqua and Staff have asserted, retaining Viscofan as a customer provides benefits to other customers, because Viscofan provides a significant contribution toward costs that would otherwise be borne by other customers. However, we are mindful of the fact that by allowing Aqua to charge other customer classes more than the cost of service, we are failing to provide Aqua with an incentive to keep costs down relative to Viscofan's cost of self-supply.

The Commission has also reviewed the positions of the parties regarding the length of the water service agreement with Viscofan. ~~While agreeing~~ We agree with AG witness Mr. Rubin that some multi-year commitment is appropriate, and are concerned that the current four-year term in Aqua's current tariffs are insufficient to provide Aqua, its ratepayers, the Commission and Viscofan with the certainty necessary to cope with potential future cost increases. In order to determine the real cost of self-supply and to protect consumers from the threat that Viscofan will leave the system in every Aqua rate case, we direct Aqua and Viscofan to develop a 10 year plan for service. Viscofan conducted an analysis of the cost of self-provisioning in 1997, 2000 and 2004, and testified that it is prepared to update its estimates if necessary. Viscofan Ex. 1 at 5. The Commission concludes that it is necessary for Aqua and the Commission to understand the estimated cost of self supply in order to fairly address the possibility of Viscofan leaving Aqua's system, and that a 10 year plan will provide the necessary information.

~~the Commission believes that the record supports a continuation of the four-year term contained in the provisions of Aqua's current tariffs.~~

#### **IV. Conclusion**

For the foregoing reasons, the People request that the Commission modify the Proposed Order as recommended herein.

Respectfully Submitted,

People of the State of Illinois  
Lisa Madigan, Attorney General

By: \_\_\_\_\_  
Janice A. Dale,  
Chief, Public Utilities Bureau  
Susan L. Satter  
Cathy C. Yu  
Assistant Attorneys General  
Illinois Attorney General's Office

100 West Randolph Street, 11th fl.  
Chicago, Illinois 60601  
Telephone: (312) 814-1104  
Facsimile: (312) 812-3212  
E-mail: [jdale@atg.state.il.us](mailto:jdale@atg.state.il.us)  
E-mail: [ssatter@atg.state.il.us](mailto:ssatter@atg.state.il.us)  
E-mail: [cyu@atg.state.il.us](mailto:cyu@atg.state.il.us)

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